

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS
AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.222.301 definitions, 24.222.502) ON PROPOSED AMENDMENT
and 24.222.506 licensure, 24.222.507)
temporary practice permits, 24.222.701)
and 24.222.702 supervision, 24.222.703)
functions of aides or assistants, and)
24.222.2102 continuing education)

TO: All Concerned Persons

1. On January 14, 2008, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Speech-Language Pathologists and Audiologists (board) no later than 5:00 p.m., on January 9, 2008, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdspl@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.222.301 DEFINITIONS (1) remains the same.

(2) "Certificate of clinical competence" means a current certificate issued by the American Speech-Language-Hearing Association (ASHA).

(3) through (5) remain the same.

(a) "aide I or assistant I" means a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, and is currently enrolled in an accredited graduate program for the purpose of completing licensure requirements;

(b) "aide II or assistant II" means a person who holds an undergraduate degree in communication sciences and disorders, or its equivalent, but is not currently enrolled in an accredited graduate program; and

(c) "aide III or assistant III" means a person who holds no undergraduate degree in communication sciences and disorders or its equivalent.

(6) "Supervision" means on-site observation and guidance by the supervising licensed speech-language pathologist or audiologist while a clinical activity is performed by the speech-language pathology or audiology aide or assistant. On-site supervision performed by the licensee may include but is not limited to the following:

(a) observation of a portion of the screening or treatment procedures performed by the aide or assistant;

(b) coaching the aide or assistant; and

(c) modeling for the aide or assistant.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-202, 37-15-301, 37-15-303, 37-15-313, MCA

REASON: The board determined it is reasonably necessary to amend this rule to define supervision as it pertains to the three levels of aides or assistants. Section 37-15-102, MCA, requires speech-language pathology and audiology aides and assistants to work directly under the supervision of a licensee. Following extensive review and discussion, the board is defining the term in this rule to clarify the intent of the board regarding licensee supervision of aides or assistants and to address questions and confusion among staff, licensees, and aides. The board is also amending (2) to clarify that certificates of clinical competence are issued by the American Speech-Language-Hearing Association (ASHA).

24.222.502 QUALIFICATIONS FOR LICENSURE (1) remains the same.

(2) An applicant will be deemed to have met the requirements of (1)(a) through (e) by submitting proof of a current certificate of clinical competence.

~~(2)~~ (3) In order to be licensed by the board as an audiologist an applicant shall:

(a) For applications made prior to January 1, 2007, an applicant shall:

~~(i) have completed a minimum of 75 semester credit hours of post-baccalaureate study that culminates in a minimum of a master's degree in audiology. The graduate education in audiology must be initiated and completed in an accredited program by the licensure board;~~

~~(ii) demonstrate skills in oral and written communication, knowledge of ethical standards, research principles, and current professional and regulatory issues;~~

~~(iii) have practicum experiences that encompass the breadth of the current scope of practice with both adults and children resulting in a minimum of 400 clock hours of supervised practicum, of which at least 375 hours must be in direct client/patient contact and 25 hours of clinical observation;~~

~~(iv) have a 36-week audiology clinical experience that establishes a collaboration between the clinical fellow and a mentor; and~~

~~(v) pass an audiology examination, as determined by the board.~~

~~(b) For applications made on or after January 1, 2007, an applicant shall:~~

~~(i) possess a Doctor of Audiology degree (Au.D.) or a Ph.D in audiology, from an accredited program approved by the board; and~~

~~(ii) remains the same but is renumbered (b).~~

~~(c) remains the same.~~

AUTH: 37-1-131, 37-15-202, MCA
IMP: 37-15-301, 37-15-303, MCA

REASON: The board is amending this rule and ARM 24.222.506 to allow submission of a certificate of clinical competence in lieu of an applicant's individual academic, practicum, and examination documentation. The American Speech-Language-Hearing Association (ASHA) issues this certificate to an individual only upon successful completion of an approved academic program and accompanying practicum and the passage of the national Praxis examination and thus in compliance with the board's qualifications for licensure as a speech-language pathologist.

It is also reasonably necessary to now delete the audiologist licensure provisions for applications received prior to January 1, 2007, as this date has passed.

24.222.506 LICENSURE OF OUT-OF-STATE APPLICANTS (1) remains the same.

(2) An applicant will be deemed to have met the requirements of (1)(b) and (c) by submitting proof of a current certificate of clinical competence.

~~(2) A license to practice speech-language pathology or audiology in the state of Montana may be issued at the discretion of the board provided the applicant completes and files with the board an application for licensure and the required application fee, and provides proof the applicant holds the certificate of clinical competence of the American Speech-Language-Hearing Association in the area for which the applicant is applying for a license.~~

(3) remains the same.

AUTH: 37-1-131, 37-15-202, MCA
IMP: 37-1-304, MCA

24.222.507 TEMPORARY PRACTICE PERMITS (1) A speech-language pathologist or audiologist who holds ~~ASHA certification~~ a certificate of clinical competence or equivalent, or is licensed in another state and who has made application to the board for a license in this state may be granted a temporary permit and perform activities and services of a speech-language pathology or audiology nature pending disposition of the application.

AUTH: 37-1-319, 37-15-202, MCA
IMP: 37-1-305, MCA

REASON: It is reasonably necessary to amend this rule to the correct terminology used in current practice and to comply with the term as defined in board rule.

24.222.701 SUPERVISOR RESPONSIBILITY (1) All persons working in the capacity of a speech-language or audiology aide or assistant must be working directly under the ~~direct~~ supervision of a fully licensed speech-language pathologist or audiologist. This supervisor assumes full legal and ethical responsibility for the

tasks performed by the aide or assistant and for any services or related interactions with a client.

(2) through (3)(d) remain the same.

(e) any other factors as determined by the supervising speech-language pathologist and or audiologist.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board is amending this rule to achieve consistency in the terminology used in 37-15-102, MCA, which requires that aides or assistants work directly under the supervision of a licensed speech-language pathologist or audiologist. The board is also amending (3)(e) to clarify that the supervisor is either a speech-language pathologist or audiologist as the board has never intended to require two licensed supervisors.

24.222.702 SCHEDULE OF SUPERVISION - CONTENTS (1) and (2) remain the same.

(a) aide I or assistant I shall be supervised on-site a minimum of 30 ten percent ~~while performing diagnostic and interpretive functions in the first year of nonallowable activities. The supervision requirement will be 5 percent of total client contact time, of which 2 percent shall be direct contact after the first year, at~~ At the discretion of the supervising speech-language pathologist, the on-site supervision requirement may be reduced to two percent after the first year of supervision.

(i) If diagnostic evaluations are being performed, the aide or assistant I shall be supervised on-site a minimum of 30 percent of the total diagnostic process.

(b) aide II or assistant II shall be supervised on-site ~~40~~ ten percent of client contact time, ~~of which 5 percent shall be direct contact; and~~

(c) aide III or assistant III shall be supervised on-site 20 percent of client contact time, ~~of which 10 percent shall be direct contact.~~

(3) and (4) remain the same.

(5) Each supervisor must also submit a supervisor summary form, as prescribed by the board, which lists the following:

(a) each speech or audiology aide or assistant;

(b) number of hours, of supervision; and

(c) other information as required by the board.

(d) The board will review the all supervisor summary forms, which indicate a supervisor supervises indicating the supervision of three or more speech or audiology aides or assistants, for compliance with the appropriate ratio of supervisor hours as stated in the rules.

(6) The supervisor must complete and submit to the board a midyear verification form by February 25 of each year, on the supervisor's renewal form, to indicate continuing compliance with the schedule of supervision previously filed under (1).

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board is amending this rule to address and rectify ongoing confusion among staff, licensees, and aides and assistants regarding the supervision requirements for aides and assistants I, II, and III. The board concluded it is reasonably necessary to amend this rule throughout and the corresponding supervisor summary form in an attempt to clarify these requirements.

Section 37-15-102, MCA, requires speech-language pathology and audiology aides and assistants to work directly under the supervision of a licensee. Following extensive review and discussion, the board is amending this rule to clarify the on-site supervision, as defined at ARM 24.222.301, required for each level of aide or assistant. The board is also amending this rule to require that licensees supervise aides or assistants I a minimum of ten percent of total client contact time and at least 30 percent of any time the aide or assistant is involved in the process of diagnostic evaluation. The board concluded that a ten percent general supervision requirement for aides I adequately protects the public as long as 30 percent of the total diagnostic process is supervised.

24.222.703 FUNCTIONS OF AIDES OR ASSISTANTS (1) and (2) remain the same.

(a) aide I or assistant I may:

(i) perform tasks identified by the speech-language pathology supervisor ~~in the required task analyses~~ according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) through (vii) remain the same.

(b) aide II or assistant II may:

(i) perform tasks identified by the speech-language pathology supervisor ~~in the required task analyses~~ according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) through (vi) remain the same.

(c) aide III or assistant III may:

(i) perform tasks identified by the speech-language pathology supervisor ~~in the required task analyses~~ according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules;

(ii) and (3) remain the same.

(a) aide I or assistant I may not refer clients to outside professionals;

(b) aide II or assistant II may not:

(i) transmit clinical information to anyone other than the professional directly supervising ~~him/her~~ the aide or assistant;

(ii) remains the same.

(c) aide III or assistant III may not:

(i) and (ii) remain the same.

(iii) transmit clinical information except to the professional directly supervising ~~him/her~~ the aide or assistant;

(iv) through (vii) remain the same.

(4) Speech-language pathologist aides I or assistants I ~~who are currently enrolled in a speech-language pathology master's program~~ may perform

~~nonallowable functions of aides I~~ diagnostic evaluations, under supervision, only if all of the following conditions have been met:

(a) through (c) remain the same.

(d) ~~annual application~~ submission of a written request for waiver of ~~nonallowable functions of speech-language pathology aides I or assistants to perform diagnostic evaluations~~ to the board for approval prior to ~~commencement of performance as a speech-language pathologist aide I~~ performing any diagnostic evaluations.

(5) remains the same.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board determined it is reasonably necessary to amend this rule to replace the antiquated and outdated "required task analyses" with "according to the therapy plan," the phrase currently used in the field of speech-language pathology. The board is amending (4) to delete the vague and undefined term "nonallowable functions" and clarify the board's intent to permit speech-language pathologist aides or assistants I to perform diagnostic evaluations upon compliance with the preconditions listed. The board is striking the redundant requirement of an aide or assistant I to be enrolled in a master's program, as this is part of the definition of aide or assistant I in ARM 24.222.301. The rule is further amended to make references gender neutral.

24.222.2102 CONTINUING EDUCATION REQUIREMENTS (1) through (5) remain the same.

(6) Speech-language pathology aides I or assistants I shall complete 20 units of approved continuing education annually and submit verification of the continuing education to the board ~~at the time of registration~~ by affirmation of the licensed supervisor on the supervisor's renewal form by February 1 annually. Fourteen continuing education units may include on-the-job training as part of the supervision plan, and college coursework obtained through an accredited college or university.

(7) Speech-language pathology aides or assistants ~~levels II and III~~ shall submit verification of ten continuing education hours ~~at the time of registration~~ by affirmation of the licensed supervisor on the supervisor's renewal form by February 1 annually.

(8) Audiology aides and audiology industrial aides or assistants shall complete ten units of approved continuing education annually and submit verification of the continuing education to the board ~~at the time of registration~~ by affirmation of the licensed supervisor on the supervisor's renewal form by February 1 annually.

(9) and (10) remain the same.

(11) Acceptable activities shall include, but are not limited to:

(a) through (14) remain the same.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-131, 37-1-306, 37-15-102, ~~37-15-309~~, MCA

REASON: The board is amending this rule to require that licensed supervisors affirm on their annual renewal forms the completion of continuing education requirements by their supervised aides and assistants. The board determined that aides and assistants do not have adequate time to complete and report continuing education by their date of hire and registration with the board. Further, supervisors already attest to compliance with supervision requirements at renewal and adding the affirmation of the aides' continuing education would not constitute an excessive burden. The board is also amending this rule to comply with ARM punctuation requirements and is deleting reference to a repealed statute in the implementation cites.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdspl@mt.gov, and must be received no later than 5:00 p.m., January 22, 2008.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.slpaud.mt.gov. The department strives to make the electronic copy of this Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Speech-Language Pathologists and Audiologists maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all Board of Speech-Language Pathologists and Audiologists administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdspl@mt.gov, or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

8. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
DARREL MICKEN, Au.D., CHAIRPERSON

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State December 10, 2007